

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**Administration Center, 18500 Murdock Circle, Room 119,**  
**Port Charlotte, Florida**  
**Minutes of Regular Meeting**  
**June 9, 2014 @ 1:30 p.m.**

**Call to Order**

**Chair Hess** called the meeting to order at 1:31 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

**Roll Call**

**PRESENT**

Paula Hess

Ken Chandler  
Stephen Vieira  
Paul Bigness

**ABSENT**

Michael Gravesen

**ATTENDING**

Joshua Moye, Assistant County Attorney  
Gayle Moore, Recording Secretary

**APPROVAL OF MINUTES**

The minutes of May 12, 2014 were approved as circulated.

**ANNOUNCEMENTS**

**Chair Hess** indicated that Mr. Chandler would like to address the Board; he expressed his appreciation for everyone's best wishes during this time of his wife's illness. Upon administration of the oath, the meeting commenced.

**PETITIONS:**

**PA-14-04-07**

**Legislative**

**Commission District III**

Pursuant to Section 163.3184(3), Florida Statutes, adopt a Small Scale Plan Amendment to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Low Density Residential (LDR) to Commercial (COM); for property located at 3051 Holly Avenue and 3060 Placida Road, in the Englewood area, containing 1.17± acres; Commission District III; Petition No. PA-14-04-07; applicant: SW Florida Marina Investors, LLC; providing an effective date.

**Z-14-04-08**

**Quasi-Judicial**

**Commission District III**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Mobile Home Conventional (MHC) to Commercial Intensive (CI), for property located at 3051 Holly Avenue and 3060 Placida Road, in the Englewood area, containing 1.17± acres; Commission District III; Petition No. Z-14-04-08; applicant: SW Florida Marina Investors, LLC; providing an effective date.

### **Staff Presentation**

**Jie Shao, Planner III**, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated May 20, 2014, giving brief details of the project, noting that the proposed project met the requirements of the Comprehensive Plan for increasing lot depth. She also noted that the adjacent property was owned by the same person, and was already zoned for commercial intensive uses. As for the neighboring residential areas, Ms. Shao noted that the development of the subject site to CI would require Type D buffering between it and the residential lots.

### **Questions for Staff**

**Chair Hess** asked why the property needed a CI designation, which is intense, for extending into residential neighborhood; **Ms. Shao** responded that per the applicant's request, this property used to have a boat sales and repair business which are CI uses. Also, the County is working on the Land Development Regulations which will be combining CG and CI. **Chair Hess** asked if the owner's property which is designated CI is currently vacant; **Ms. Shao** said yes. **Chair Hess** asked about the intended use, but Ms. Shao was unable to answer. The Chair expressed her concern about the CI request. **Mr. Bigness** asked if there had been much citizen response; **Ms. Shao** referenced Mr. Arnold Taranto, whose email objection has been provided to the Board, and is attached to these minutes and made a part hereof.

### **Applicant's Presentation**

**Robert H. Berntsson, Esq.**, applicant's agent, spoke in support of the project, noting his client owns the entire block and has also purchased the Stump Pass Marina at the rear of the land overlooking the water; the frontage site and marina have always been used in conjunction with one another. The client intends to bring back the boat sales on the property utilizing both the part already zoned CI and the subject site. This means increasing the depth of the commercial lot, which is in line with County initiatives.

**Mr. Berntsson** noted that there was already a thick buffer to the north along Louisiana St., which has never been constructed and is heavily wooded; this is compatible with required buffering where commercial meets residential. He spoke about other options for the property, noting that the section of Towhee St. running between the client's two parcels had been vacated in the past, which would make development on the subject site difficult. **Mr. Berntsson** also pointed out that even though the lots on Holly Ave. could be developed to MHC, the County seeks to reduce density in this area. **Chair Hess** again expressed concern over the CI designation, noting that the present owners intentions would not be the only kind of business that ultimately could be there. **Mr. Berntsson** responded that the rezoning is sought for the right to have outside storage; it is not an industrial designation; also there will be a combination of the CI and CG zoning districts into one in the new land development code, with greater reliance on the buffering. **Chair Hess** continued to express concern and inquired whether a PD had been considered. Mr. Berntsson responded that in conversations with staff, it wasn't felt there was a need for a Planned Development. **The Chair** mentioned, for the benefit of the public, that there can't be conditions without a PD nor can the use be restricted to the applicant's present

plans. **Mr. Berntsson** noted that the property location rules out many of those other kind of uses; this is a commercial area, not an industrial area, although as he pointed out there is already an extensive repair facility at the marina. **Chair Hess** also noted that there can't be restricted access to the property either, but **Mr. Berntsson** noted that the Comp Plan requires, if you have access to a main road, the local residential roads cannot also be used unless there is a traffic study supporting improved safety as a result. Further discussion ensued on this point.

**Mr. Vieira** asked for clarification that access to the site will only be from Placida Road; **Mr. Berntsson** responded yes, but noted that theoretically there could also be access from Wyoming where there is already CI across the road from the subject site, but the comp plan doesn't allow additional access from the residential area.

**Chair Hess** then invited public comment; while the first citizen was signing in, **Chair Hess** also noted that the person who had provided the lengthy memorandum in opposition to the project which had been provided to the Board members for review, Mr. Arnold Taranto, has a local address on Holly Ave.

### **Public Input**

**Mr. Dave Taylor**, owner of Stump Pass Condos, said the subject property is currently serving as a greenbelt buffering the condos from that commercial activity on Placida Rd. and nonetheless, that activity is still audible; if this buffer is demolished, there will be no protection. **Chair Hess** pointed out that the subject site isn't a greenbelt, but rather land designated for infill, and she explained the meaning of the term infill. Mr. Taylor asked what a type D buffer is; **Ms. Shao** showed a graphic of the Type D buffer, and described the various combinations of depth and height that can be used. Further discussion ensued on the subject of buffer types and what is "needed" and "effective" in such circumstances. **Mr. Taylor** expressed concern that there is no guarantee it will stay the 'benign' boat sales being currently contemplated; **Chair Hess** agreed that was true and restated that was her concern, also. But she also offered Mr. Berntsson's observation that the size of the property would limit most large industrial businesses such as lumber yards and the like, from utilizing the site. Further discussion ensued on these points, and **Mr. Taylor** indicated he would like more specific information on what the buffer would actually be; **Mr. Berntsson** responded that the site hasn't been designed yet, but that it would most likely be a wall on a 10 ft. or 20 ft. buffer strip. **Mr. Taylor** made this additional point: there is a person who has a trailer home on the corner near the subject site, who went to a lot of effort on his property, just as was done with the condos. It's very nice, and there is concern that this project could negate what has been done. **Chair Hess** said that she has talked to residents near commercial US 41 who have been very pleased with the outcome of buffering in similar circumstances.

**Mr. Melvin Korte**, resident of 20 years in the area, asked for a show of hands of who among those present has lived next to a marina, or a boat sales and repair operation, asking whether you know what we are talking about here? **Mr. Korte** talked about the original rezoning of this area to commercial, and how the neighborhood trees were cut after the approval. He noted that now it is much louder, and he also indicated that the

drainage now comes on his property. He expressed great concern about the potential for noise; the former boat sales owners left their PA system on overnight and no one would respond to complaints about it. **Chair Hess** acknowledged that it is difficult to live near commercial, but the time to consider that is before you purchase property next to commercial; however, **Mr. Korte** pointed out that this area wasn't commercial when he bought there. Further discussion ensued on his desire to find some way to prevent approval of this project.

The gentleman mentioned that he had the memorandum from Mr. Taranto, who would like it read; **Chair Hess** acknowledged that it was received and would be sent along to the Board. **Assistant County Attorney Josh Moya** noted that each of the P&Z Board members had read it; **Chair Hess** noted that under the rules of quasi-judicial hearings, such as this rezoning request, citizens who wish to make input to the Board must appear in person to do so, and therefore the memo cannot be read out loud in the meeting. Further discussion ensued with Mr. Korte regarding the zoning mistakes made in the past.

**Mr. Hartmut Froehlich** addressed the Board on a matter that turned out to be about the unconstructed section of Louisiana Avenue, asking if the County intended to cut the pepper trees and build the street; he was referred to Public Works for information on this issue.

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

### **Applicant's Rebuttal**

**Mr. Berntsson** addressed the group with details of how he thought the site would be developed; there would be a unified site plan including stormwater facilities, berms, walls and landscaping buffers. The most reasonable thing would be that the stormwater facility will go toward the rear of the property with the business located to the frontage at Placida Rd., so the business noise would be well away from the homes. This is an ongoing discussion whenever commercial proposes to locate near residential; however, there is an equally compelling discussion about minimizing further residential development at the shore. He spoke further about the neighborhood and deterioration in the area; he also described in the increase in the effectiveness of the buffering which County Code now requires.

**Mr. Chandler** asked about the lack of drainage, specifically as it relates to the site plan review process; if that takes a lot of time, how will this rainy season affect the residents in this area. **Mr. Berntsson** replied that it was correct, the applicant can't move dirt until all permits are in; they have only owned it briefly and not during a rainy season, so they don't know the summer conditions there. The site plan review process, which might take about six weeks total, will set the drainage requirements; development would take about six to nine months. **Mr. Chandler** asked the citizens if they have had drainage problems in the past. Further discussion ensued between Chair Hess, Mr. Chandler and Mr.

Berntsson with the point made that if this was being developed for individual MHC, there would be no permitting, no stormwater requirements.

**Mr. Bigness** clarified that the site is intended use is for boat sales and expressed he was curious why the owners wouldn't just use the open expanse which would mean they wouldn't have to put the drainage in. He asked if a new building was planned for the site; **Mr. Berntsson** replied that was not currently the plan, they just wanted to be able to expand their inventory in that direction. **Mr. Bigness** asked how many jobs the project would generate; **Mr. Berntsson** said he didn't have that information, but the long-term intention is to make improvements at marina site and sales site, and enhance opportunities for the boating public. **Mr. Bigness** asked about the buffer issue, noting he has seen deteriorated buffers; **Chair Hess** notes that it's up to the neighbors to alert Code Compliance about such matter.

### **Discussion**

**Chair Hess** stated her view that the proposal complies with the Comprehensive Plan; that the Type D buffer will be required, all applicable state and local permitting will be required, there are no concurrency issues, and the proposal serves to reduce residential density in the area, which is a goal of the Comp Plan. She said that, therefore, she is in favor of a recommendation of approval. She added that boat sales are not too intrusive or intensive, and that the buffer will be effective. **The Chair** also reiterated that she agreed with Mr. Berntsson that the size of the site does not allow for the more intensive CI uses, a possibility that had concerned her; she stated that this was the convincing argument in that area of concern.

**The Chair** noted that **Mr. Bigness** had already said he felt the project would encourage business and deepen the commercial strip, and asked if he had anything further to say. He responded that in making such decisions as these, it could be necessary to evaluate Who was there first; in this case, it was the homeowners who were there first, and like most of us, would like to keep the peace. But, he said, Mr. Berntsson had good answers to the concerns raised, particularly if the buffer is put in as described. **Mr. Bigness** closed by making a strong recommendation for the development, should it proceed, to be sensitive to homeowner issues.

**Mr. Vieira** said he agreed with the point that drainage would most likely be set toward the rear and that along with type D buffer, would probably protect the existing residents when site is developed. Also, the proposal would reduce density and increase commercial opportunities. **Mr. Chandler** said that he agreed with Mr. Bigness. **Mr. Moya** noted there had been some confusion about the required buffer type, and advised that clarification be made part of the motion.

### **Recommendation**

**Mr. Bigness** moved that application PA-14-04-07 be sent to the Board of County Commissioners with a recommendation of *Approval with the added notation that the buffer will be "D" not "C"*, based on the findings and analysis in the staff report dated May

20, 2014, along with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

**Mr. Bigness** moved that application Z-14-04-08 be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated May 20, 2014, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

Chair Hess announced a five-minute break commencing at 2:29 pm; the meeting recommenced at 2:33 pm.

**PA-14-04-09**

**Legislative**

**Commission District II**

Pursuant to Section 163.3184(3), Florida Statutes, adopt a Small Scale Plan Amendment to change Charlotte County FLUM Series Map #1: 2030 Future Land Use, from Agriculture (AG) to Low Density Residential (LDR); for property located at 29255 Jones Loop Road, in the Punta Gorda area, containing 9.53± acres; Commission District II; Petition No. PA-14-04-09; applicant: TMV Properties, Inc.; providing an effective date.

**Staff Presentation**

**Elizabeth Nocheck, Planner II**, presented the findings and analysis of the petition with a recommendation of Approval, based on the reasons stated in the staff report dated May 23, 2014, giving brief details of the project, noting that the current designation of Agriculture is not compatible with land inside the Urban Service Area (USA), which is no longer ideal for such uses. She also noted that the property is within the Maturing Neighborhood framework designation on the 2050 Framework map. This property is also qualified as a receiving zone for the transfer of density units (TDU).

**Questions for Staff**

*None.*

**Applicant's Presentation**

**Geri Waksler, Esq.**, applicant's agent, spoke in support of the project, also noting that the land is within the USA and enumerating additional features of the site and the surrounding area, observing that the site is ideal for development to a higher level of density. Low density development on this site would further the goals of the Comp Plan.

**Public Input**

*None*

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

**Discussion**

**Chair Hess** noted this project is in her district, and agreed that this is no longer an appropriate site for agricultural uses. She also noted that a transfer of density units would have to be completed before the site could be developed to the new designation.

**Recommendation**

**Mr. Vieira** moved that application PA-14-04-09 be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated May 23, 2014, along with the evidence presented at today's meeting, second by **Mr. Bigness** and carried by a unanimous vote.

**PP-07-02-04**

**Quasi-Judicial**

**Commission District II**

PG Holdings, LLC is requesting a two-year extension to the Preliminary Plat approval for Burnt Store 80 Acres. The applicant was granted Preliminary Plat approval by the Board of County Commissioners on May 15, 2007, with four (4) conditions. A one-year extension was granted by the Planning and Zoning Board on July 13, 2009, a two-year extension was granted on August 9, 2010, and another two-year extension was granted on July 9, 2012. The subdivision, consisting of one hundred eight (108) single-family lots (a Planned Development) on 80.15 acres, more or less, is in Sections 29 and 32, Township 42, Range 23, located east of Burnt Store Road (off Harbor Side Boulevard), southeast of Harborside Woods Subdivision, and south of Punta Gorda Isles Section 16 subdivision in Commission District II.

**Staff Presentation**

**Steven Ellis, Planner II**, presented the petition requesting a two-year extension of the Plat with a recommendation of Approval, based on the reasons stated in the staff report dated April 8, 2014. He noted that a prior request had also been granted. The additional time is requested due to general economic conditions.

**Questions for Staff**

*None.*

**Applicant's Presentation**

*None.*

**Public Input**

*None.*

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

**Discussion**

**Chair Hess** noted that the Board has been approving these requests for extension for some time now, and we are all hoping for an improved economy so that the project can go forward.

**Recommendation**

**Mr. Vieira** moved that application PP-07-02-04 requesting a two-year extension be *Approved*, based on the findings and analysis in the staff report dated April 8, 2014, along

with the evidence presented at today's meeting, second by **Mr. Chandler** and carried by a unanimous vote.

There being no further business to come before the Board, the meeting was adjourned at 2:42 p.m.

Accepted on behalf of the Charlotte County  
Planning and Zoning Board

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